

803 KAR 2:180. Recordkeeping, reporting, statistics.

RELATES TO: KRS 338.015(1), (2), 338.121(3), 338.161, 29 C.F.R. Part 1904

STATUTORY AUTHORITY: KRS 338.061, 338.161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.161(1) requires the Department of Workplace Standards, represented by the commissioner to promulgate administrative regulations requiring employers to report occupational safety and health statistics. 29 C.F.R. Part 1904 authorizes requirements for the recording and reporting of occupational illnesses and injuries. This administrative regulation establishes recordkeeping and reporting requirements for employers pursuant to KRS Chapter 338.

Section 1. Definitions. (1) "Amputation" means an injury in which a portion of the body including bone tissue is removed.

(2) "Employee" is defined by KRS 338.015(2).

(3) "Employer" is defined by KRS 338.015(1).

(4) "Hospitalization" means formal admission to a hospital or clinic for care, treatment, observation, or diagnostic testing.

(5) "Loss of eye" means the physical removal of an eye from the socket.

(6) "Occupational Safety and Health Act" or "OSHA" means KRS Chapter 338.

(7) "Secretary of Labor" means the Secretary of the United States Department of Labor or the Secretary of the Labor Cabinet.

(8) "Section 11(c) of the Act" means KRS 338.121(3).

Section 2. An employer shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Administration, except as modified by the definitions in Section 1 of this administrative regulation and the requirements of Section 3 of this administrative regulation:

(1) 29 C.F.R. Part 1904, effective July 1, 2019; and

(2) The amendment to 29 C.F.R. Part 1904 as published in the May 14, 2019 Federal Register, Volume 83, Number 93.

Section 3. Reporting Fatalities, Amputations, Hospitalizations, or Loss of Eye. The reporting requirements established in this section shall apply in lieu of 29 C.F.R. 1904.39.

(1) An employer shall orally report to the Kentucky Labor Cabinet, Department of Workplace Standards, Division of Occupational Safety and Health Compliance, at (502) 564-3070, any of the following which occurs in the work environment, or is caused or contributed to by an event in the work environment:

(a) Death of any employee, including any death resulting from a heart attack; or

(b) Hospitalization of three (3) or more employees, including any hospitalization resulting from a heart attack.

(2) The report required pursuant to subsection (1) of this section shall be made within eight (8) hours from when the death or hospitalization of three (3) or more employees is reported to the employer, the employer's agent, or another employee. If the employer cannot speak with someone in the Frankfort office, the employer shall report the incident using the OSHA toll-free, central telephone number, 1-800-321-OSHA (1-800-321-6742).

(3) An employer shall orally report to the Kentucky Labor Cabinet, Department of Workplace Standards, Division of Occupational Safety and Health Compliance, at (502) 564-3070, any of the following which occurs in the work environment, or is caused or contributed to by an event in the work environment:

- (a) An amputation suffered by an employee;
 - (b) An employee's loss of an eye; or
 - (c) The hospitalization of fewer than three (3) employees within seventy-two (72) hours following the incident, including any hospitalization resulting from a heart attack.
- (4) The report required pursuant to subsection (3) of this section shall be made within seventy-two (72) hours from when the amputation, loss of an eye, or hospitalization of three (3) or less employees is reported to the employer, the employer's agent, or another employee.
- (5) The requirement to report the loss of an eye pursuant to subsection (3)(b) of this section shall be effective January 1, 2016.

Section 4. This administrative regulation was found deficient by the Administrative Regulation Review Subcommittee on June 9, 2020. (1 Ky.R. 835; eff. 5-14-1975; 5 Ky.R. 144; eff. 10-4-1978; 621; eff. 3-7-1979; 10 Ky.R. 309; eff. 9-7-1983; 21 Ky.R. 105; 926; eff. 9-12-1994; 26 Ky.R. 2038; 27 Ky.R. 117; eff. 7-17-2000; 28 Ky.R. 1919; 2206; eff. 4-15-2002; 29 Ky.R. 2353; 2689; eff. 5-15-2003; 30 Ky.R. 1083; 1508; eff. 1-5-2004; 32 Ky.R. 1338; 33 Ky.R. 102; eff. 8-7-2006; TAm eff. 8-9-2007; 35 Ky.R. 1287; 1753; eff. 1-5-2009; TAm eff. 9-8-2011; TAm eff. 7-12-12; 42 Ky.R. 108, 680; eff. 10-2-2015; 43 Ky.R. 330, 685; eff. 12-2-2016; 45 Ky.R. 2989; eff. 6-7-2019; 46 Ky.R. 2522; 47 Ky.R. 62; eff. 8-4-2020.)